

Appl. No. 10/061,727
Amdt. dated October 20, 2005
Resp. to Office Action dated April 22, 2005

REMARKS

In view of the foregoing amendment and the following response, Applicants respectfully request reconsideration of the claims pending in this application. Claims 1, 2, 5-7 and 9-11 are pending and under consideration. Claims 1, 2 and 7 are allowed and claims 5, 6 and 9-11 are rejected, claims 5, 9-11 are amended. In the discussion that follows Applicants address each of the continued rejections and objections identified in the Office Action mailed April 22, 2005.

The Examiner rejects claim 9 under 35 U.S.C. 101 because the Examiner is of the opinion that the claim is drawn to non-statutory subject matter. In view of the amendment that accompanies this paper, Applicants believe this claim is in condition for allowance and respectfully request that the Examiner withdraw this rejection.

The Examiner further rejects claims 5, 6, 9, and 10 under 35 U.S.C. 112, first paragraph, because the Examiner is of the opinion that the claims contain subject matter which is not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention. By the above amendment Applicants clearly state that the claimed polynucleotides comprise specifically described polynucleotide fragments. The fragments are described in terms of amino acids however, the law is well settled that one skilled in the art can readily write any and all nucleic acids that encode any given polypeptide.


In view of the newly amended claims, Applicants submit that this rejection is overcome and respectfully request that the Examiner withdraw this rejection.

The Examiner additionally rejects claims 10 and 11 under 35 U.S.C. 112, second paragraph because the Examiner believes these claims do not particularly and distinctly claim the subject matter. More particularly, the Examiner asserts that the claimed processes read on any of the proteins produced by the host cell. As Applicants previously have stated, the specifically produced polypeptides are implicit in the use of the novel host cells. Moreover, since claims 10 and 11 recited a process using a novel host cell, the claims should be deemed patentable. However, in the interest of expediting allowance, Applicants amend claims 10 and 11 to specifically state the polypeptides produced by each of the claimed processes.

In view of the foregoing remarks and amendments, Applicants submit that the claims pending in this application are in condition for allowance and respectfully request a notice to that effect.

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Respectfully submitted,


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